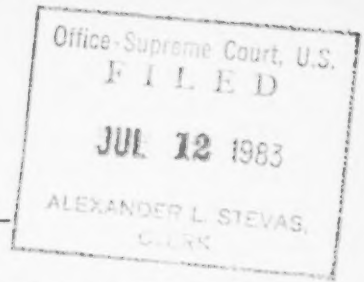


No. 82-2020



IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1982

ALYCE HOVSEPIAN

Petitioner,

v.

GEORGE F. NEFF, INDEPENDENT EXECUTOR OF THE
ESTATE OF ANNETTE GANO LUMMIS AND
NORTON BOND, EXECUTOR OF THE ESTATE OF RUSH HUGHES

Respondents.

On Petition for Writ of Certiorari To The
Court of Appeals for the
Fourteenth Supreme Judicial District of Texas

BRIEF IN OPPOSITION TO PETITION
FOR WRIT OF CERTIORARI

Berry D. Bowen
ANDREWS & KURTH
4200 Texas Commerce Tower
Houston, Texas 77002
(713)220-4200
Attorneys for Respondent
George F. Neff, Executor
of the Estate
of Annette Gano Lummis,
Deceased

No. 82-2020

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SUPREME COURT OF THE UNITED STATES

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FOR WRIT OF CERTIORARI

The respondent George F. Neff, Administrator of the Estate of Annette Gano Lummis, Deceased, respectfully prays that this Court deny the Petition for Writ of Certiorari seeking review of the judgment and opinion of the Court of Appeals for the Fourteenth Supreme Judicial District of Texas entered in this action on August 12, 1982.

QUESTIONS PRESENTED

Whether the Texas Courts in this case decided a federal question in a way in conflict with the decision of another state court of last resort or of a federal court of appeals.

Whether the Texas Courts in this case decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

STATEMENT OF THE CASE

Alyce Hovsepien, Petitioner, resident of the state of New Jersey, filed a claim against the estate of Howard Robard Hughes, Jr., and her Entry of Appearance in Probate Court No. 2, Harris County, Texas on September 24, 1976; her second Entry of Appearance alleging a New Jersey ceremonial marriage between herself and Hughes was filed on May 1, 1980. On August 28, 1981, after the entry of judgment against her, Petitioner filed in Probate Court No. 2, Harris County, Texas, an affidavit of claim of Heirship, to the Supreme

Court of the United States, as the purported wife of Howard Robard Hughes, Jr. in which she alleged certain additional matters. These documents, certified copies of which are attached as an Appendix to this brief, constitute the entire substantive case presented by Petitioner in the Texas probate court. The federal questions now urged by Petitioner were not raised or preserved in the Texas probate court.

Reasons The Writ Should
Not Be Granted.

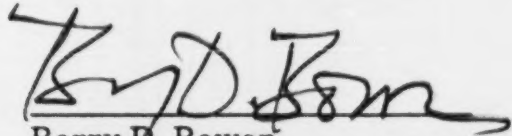
The alleged constitutional issues petitioner seeks to have reviewed were not raised in Probate Court No. 2, Harris County, Texas and not preserved for review by the Texas appellate courts. Some of the claims advanced by Petitioner have been raised for the first time on certiorari, and the state courts had no opportunity to pass on them. Failure to preserve an issue in the lower courts constitutes grounds for denying a petition for writ of certiorari or for dismissing a writ of certiorari as having been improvidently granted. The petition should therefore be denied. Monks v. New Jersey, 398 U.S.71 (1970); Street v.

New York, 394 U.S. 576 (1969); Ellis v. Dixon, 349 U.S. 458 (1955).

CONCLUSION

It is therefore respectfully submitted that this case is not a proper one for review by certiorari in the Supreme Court of the United States, and respondents pray that the petition for Writ of Certiorari be denied.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Berry D. Bowen", written over a horizontal line.

Berry D. Bowen
ANDREWS & KURTH
4200 Texas Commerce Tower
Houston, Texas 77002
(713) 220-4200


Attorneys for Respondent
George F. Neff, Executor
of the Estate
of Annette Gano Lummis,
Deceased

PROOF OF SERVICE

Berry D. Bowen, Andrews & Kurth, deposes and states that pursuant to Rule 28.3 of this Court he served this Brief in Opposition to Writ of Certiorari on the Petitioner by enclosing three copies of each thereof in an envelope, certified mail, return receipt requested, addressed to:

Alyce Hovsepian, Pro Se
34 South North Caroline Avenue
Atlantic City, New Jersey 08401

and depositing the same in the United States mails at Houston, Texas on the 14th day of July, 1983.


BERRY D. BOWEN

No. 82-2020

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1982

ALYCE HOVSEPIAN

Petitioner,

v.

GEORGE F. NEFF, INDEPENDENT EXECUTOR OF THE
ESTATE OF ANNETTE GANO LUMMIS AND
NORTON BOND, EXECUTOR OF THE ESTATE OF RUSH HUGHES

Respondents.

On Writ of Certiorari To The
Supreme Court of Texas

APPENDIX "A" TO
BRIEF IN OPPOSITION TO PETITION
FOR WRIT OF CERTIORARI

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A

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PROBATE COURT 2

674 98 1089

#139,362

50470

IN THE OFFICE OF THE
REGISTER OF WILLS
IN AND FOR NEW CASTLE COUNTY
AND STATE OF DELAWARE

IN THE MATTER OF :
THE ESTATE OF :
HOWARD R. HUGHES, JR. :

ENTRY OF APPEARANCE AND NOTICE OF EXISTENCE OF AN HEIR

Please take notice that the firm of FLANZER & ISAACS represents Alyce Hughes, nee Hovsepian.

Please also take notice that Alyce Hughes is the wife of Howard R. Hughes, Jr., the decedent.

The address of Alyce Hughes is 34 S. North Carolina Avenue, Atlantic City, New Jersey 08104.

Please forward copies of all pleadings to the undersigned and to Alyce Hughes, 34 S. North Carolina Avenue, Atlantic City, New Jersey 08104.

FLANZER & ISAACS

Dated: August 30, 1976

By Joseph H. Flanzer
Joseph H. Flanzer

1976 SEP 24 AM 8 45

1976 SEP 24 AM 8 45

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF HARRIS

This is a full, true, and correct photographic copy of the original record now in my official custody and possession, as the same is recorded in the Official Public Records of Probate Courts in my office and preserved on microfilm, and having Microfilm Identification Number as shown on the label, I hereby certify on

JUN 1 6 1983



ANITA RODEHEAVER
COUNTY CLERK
HARRIS COUNTY, TEXAS

By Judy Sword
Deputy

JUDY SWORD

10

5691-11

085-95-2381

PROBATE COURT NO. 2

STATE OF TEXAS
COUNTY OF HARRIS
HONORABLE PROBATE
COURT No. (2) TWO

DOCKET No. 139,362
ESTATE of: HOWARD ROBARD HUGHES, JR.
(Deceased)

Howard Robard Hughes, Jr., the decedent, married
ALYCE HOVSEPIAN, a resident of the State of New Jersey, in both
a civil ceremony on or about June 6, 1946, in the State of
New Jersey, and a church ceremony, thereafter. This marriage was
never terminated by divorce.

I, Alyce Hovsepien Hughes, am here in Houston, Texas, to attend
the pretrial conference on the first day of MAY 1980, per order
entered on the 21st day of March 1980, by the HONORABLE
JUDGE PAT GREGORY, a judge in the Probate Court No. 2 (Two) of
Harris County, Texas.



Jerry O. McQuillie
Notary Public

Harris County, State of Texas
My commission expires July 19, 1981.

Alyce Hovsepien Hughes
ALYCE HOVSEPIAN HUGHES
34 South North Carolina Ave.
Atlantic City, N.J. 08401
April 30, 1980.

FILED
MAY 1 1 39 PM 1980
CLERK
COUNTY CLERK
HARRIS COUNTY, TEXAS

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF HARRIS

This is a full, true, and correct photographic copy of the original record
now in my lawful custody and possession, as the same is recorded in the
Official Public Records of Probate Courts in my office and Preserved
on Microfilm, and having Microfilm Identification Number as stamped
thereon, I hereby certify on

JUN 16 1980



ANITA RODEHEAVER
COUNTY CLERK
HARRIS COUNTY, TEXAS

Deputy

JUDY SWORD

✓ COPY TO: PROBATE COURT NUMBER TWO, HARRIS COUNTY, TEXAS. CAUSE #139,362
TO: THE HONORABLE JUDGES OF THE SUPREME COURT of the UNITED STATES
of AMERICA

65060

X of Mr. Alexander Stevas
Recording Clerk
Ground Floor
Building 61, 1st Ave., N.E.
Washington, D.C.

COUNTY OF SARASOTA
STATE OF FLORIDA

RE: HOWARD R. HUGHES, JR.
Decedent

690-66-1456

Dear Mr. Stevas:

Kindly file this AFFIDAVIT OF CLAIM OF HEIRSHIP in Washington, only

MAY IT PLEASE THE COURT:

Come now ALYCE HOVSEPIAN HUGHES, a.k.a. ALYCE HOVSEPIAN, WIDOW, who states, that she and HOWARD ROBERT HUGHES, JR., made ORAL AGREEMENTS of marriage, see COMMON LAW OF PENNSYLVANIA, in the CITY OF PHILADELPHIA, COMMONWEALTH OF PENNSYLVANIA June, 1946, and therefore were married under the COMMON LAW OF PENNSYLVANIA, under which a license and solemnization are not required, proof is not required, witnesses are not required, cohabitation is not required. In addition, ALYCE HOVSEPIAN HUGHES states, that she was married in NEW JERSEY in June of 1946. After a great deal of investigation, association, plus a MAY, 1946 picture of ALYCE HOVSEPIAN HUGHES with HOWARD R. HUGHES, JR., she recalls, that the FORMER Atlantic City, City Hall at Tennessee Avenue, which was destroyed in 1968, contained on the second floor both the BUREAU OF VITAL STATISTICS and the JUDGES' CHAMBERS, WITH access by climbing steps.

Therefore, ALYCE HOVSEPIAN HUGHES now states, that she remembers applying for a marriage license with HOWARD ROBERT HUGHES, JR., along with HOWARD R. HUGHES, JR.'s employee as a witness.

Further, ALYCE HOVSEPIAN HUGHES states, that she maintained her position as the WIFE of HOWARD ROBERT HUGHES, JR., for twenty-eight (28) years in GOOD FAITH.

After due consideration, the amount of this claim is hereby reduced to thirty-three and one third (33-1/3) per cent, or one-third of the net estate.

FILED

AUG 28 11 56 AM

State of Florida
County of Sarasota

Clerk of the Court
COUNTY OF
HARRIS COUNTY, TEXAS

Alyce Hovsepian Hughes
ALYCE HOVSEPIAN HUGHES
a.k.a. ALYCE HOVSEPIAN
134 S. MONROE CAROLINA AVE.
Atlantic City, N.J.
08401

Before me this day personally appeared
Alyce Hovsepian Hughes to me well known
to be the person who executed the foregoing
instrument and acknowledged that she executed said
instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 22nd day of July A.D. 1981.

Sharon Dean
Notary Public
State of Florida at Large
Notary Public, State of Florida at Large
My Commission Expires April 24, 1983
Bonded by Anna Casualty & Surety Co.

COPY FOR THE ATTORNEY GENERAL

CERTIFIED COPY CERTIFICATE
STATE OF TEXAS
COUNTY OF HARRIS

The same is a full, true, and correct photographic copy of the original record
now in my lawful custody and possession, as the same is recorded in the
Official Public Records of Probate Courts in my office and preserved
on Microfilm, and having Microfilm Identification Number as stamped
thereon, I hereby certify on

1982



ANITA ROEHEAVER
COUNTY CLERK
HARRIS COUNTY, TEXAS

Clerk

JUDY SWORD